

# HOUSE BILL REPORT

## SB 6070

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### **As Passed House - Amended:**

April 14, 2009

**Title:** An act relating to disposal of dredged riverbed materials from the Mt. St. Helen's eruption.

**Brief Description:** Regarding disposal of dredged riverbed materials.

**Sponsors:** Senator Hatfield.

### **Brief History:**

#### **Committee Activity:**

Agriculture & Natural Resources: 3/17/09, 3/26/09 [DPA];

General Government Appropriations: 4/1/09, 4/3/09 [DPA(APPG w/o AGNR)].

#### **Floor Activity**

Passed House - Amended: 4/14/09, 90-7.

### **Brief Summary of Bill (As Amended by House)**

- Allows any landowner that has accepted materials dredged from specified rivers onto his or her property prior to January 1, 2009, to sell, transfer, or otherwise dispose of the materials without having to pay compensation to the state.
- Allows dredge spoils removed from specified rivers between January 1, 2009, and December 31, 2017, to be sold, transferred, or disposed without paying compensation to the DNR if the land where the materials are located was not used as a source for the commercial sale of similar materials prior to the beginning of the year 2009.
- Allows a landowner who is ineligible to sell the material without paying compensation based on commercial activities prior to 2009 to use dredge spoils removed from specified rivers between January 1, 2009 and December 31, 2017, without having to pay compensation to the state; however, any commercial sale of the materials would require the payment of compensation.
- Requires the Department of Natural Resources to provide a summation of funds that would have accrued to the state if landowners were required to compensate the DNR for the materials.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** Do pass as amended. Signed by 12 members: Representatives Blake, Chair; Grant-Herriot, Vice Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Lias, McCoy, Nelson, Ormsby, Pearson and Warnick.

**Minority Report:** Do not pass. Signed by 1 member: Representative Van De Wege.

**Staff:** Jason Callahan (786-7117)

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## HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

**Majority Report:** Do pass as amended by Committee on General Government Appropriations and without amendment by Committee on Agriculture & Natural Resources. Signed by 10 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong, Blake, Crouse, Kenney, Pedersen and Short.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Dunshee, Hudgins and Williams.

**Staff:** Owen Rowe (786-7391)

### **Background:**

#### Aquatic Lands.

The Washington state Constitution declares that the beds and shores of all navigable waters in Washington are owned by the state. The Legislature subsequently designated the Department of Natural Resources (DNR) as the steward of these lands. The DNR acts as a proprietor, subject to legislative direction, of all state-owned aquatic lands and holds these lands in trust for all current and future residents of the state.

The Legislature has also vested specific authority for the DNR to sell valuable resources from state lands. The DNR sells a variety of resources from state lands, including timber, stone, gravel, and geoducks. When a valuable material is removed from state-owned aquatic lands, the proceeds of the sale are split evenly between the DNR's aquatic lands program and the Aquatic Lands Enhancement Account.

#### Mount St. Helens.

The 1980 eruption of Mount St. Helens caused a significant amount of material to enter several of Washington's navigable rivers systems. These rivers were subsequently dredged, and much of the dredge spoil was deposited on the public and private land adjacent to the riparian areas.

Between 1980 and 1995, dredge spoils could be removed without paying the DNR for the value of the materials from the shores of the Toutle River, the Coweeman River, and the

section of the Cowlitz River from two miles above its confluence with Toutle River to its mouth. This authorization expired on December 31, 1995.

**Summary of Amended Bill:**

Any landowner that has accepted materials dredged from the Coweeman River, Toutle River, or a specified segment of the Cowlitz River onto his or her property prior to January 1, 2009, may sell, transfer, or otherwise dispose of the materials without having to pay compensation to the DNR if the materials were removed from the rivers for the benefit of navigation or flood control.

Dredge spoils removed from the specified rivers between January 1, 2009, and December 31, 2017, may only be sold, transferred, or disposed without paying compensation to the DNR if the land where the materials are located was not used as a source for the commercial sale of similar materials prior to the beginning of the year 2009. If a landowner is ineligible to sell the material without paying compensation based on commercial activities prior to 2009, then the materials may only be used without paying the DNR compensation; however, any commercial sale of the materials would require the payment of compensation.

Prior to removing and selling the materials, the landowner must notify the DNR as to how much of what type of material is being removed. The DNR must provide a biennial report to the Legislature that provides a summation of funds that would have accrued to the state if landowners were required to compensate the DNR for the materials.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Amended Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Agriculture & Natural Resources):**

(In support) Problems surfaced early on during the recovery from the Mount St. Helens eruption with private landowners expressing a disinterest in using their lands for storing materials dredged out of the area rivers. Landowners were persuaded into accepting the dredge materials once the state allowed them to use the materials without paying a royalty.

(With concerns) The DNR has proprietary management authority over all state-owned aquatic lands. Removing the authority for the DNR to charge royalties for these materials means that there will be less money available to manage aquatic resources. Currently, there are no restrictions against using the dredge materials. Payments to the state are required only if the materials are sold for profit.

(Opposed) None.

**Staff Summary of Public Testimony (General Government Appropriations):**

(In support with Amendments) The Department of Natural Resources (DNR) supports this bill as amended by the House Committee on Agriculture and Natural Resources. The DNR's primary concern with the underlying Senate bill is that it would constitute a gift of state resources. The DNR interprets the amended bill as having less of an impact to the DNR's management accounts.

(With concern) Cowlitz County has concerns with the Senate bill as amended by the House Committee on Agriculture and Natural Resources, and cannot support its passage. Back in the 1980's, after the eruption of Mt. St. Helens, the Army Corps of Engineers spent several hundred million dollars to dredge the river and to build a retention structure. Dredging needs to occur until the United States Army Corps can come up with another solution. The issue now is the same as it was during the 1980's. Property owners are unwilling to accept dredged materials if they are required to pay royalties to the DNR. The state has spent \$365,000 on one landowner's property to prepare it for a deposit of dredged materials, and the property owner will not accept any more dredged materials if there is a royalty associated with it. The estimate in the fiscal note for the loss of revenues to the state is too high.

(Opposed) None.

**Persons Testifying** (Agriculture & Natural Resources): (In support) Ken Stone, Cowlitz County.

(With concerns) Rich Doenges, Department of Natural Resources.

**Persons Testifying** (General Government Appropriations): (In support with Amendments) Heath Packard, Department of Natural Resources.

(With concern) Kenneth Stone, Cowlitz County.

**Persons Signed In To Testify But Not Testifying** (Agriculture & Natural Resources): None.

**Persons Signed In To Testify But Not Testifying** (General Government Appropriations): None.